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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,072	11/16/2000	Michael J. Rieschl	RA 5323 (33012/295/101)	5429

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EXAMINER

VU, NGOC K

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/714,072	RIESCHL ET AL.	
	Examiner	Art Unit	
	Ngoc K. Vu	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 21-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Allowable Subject Matter

1. The indicated allowability of claims 1-10 and 21-25 is withdrawn in view of the newly discovered reference(s) to Duso (U.S. 5,892,915). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because there are no antecedent basis for the limitations "said user" in line 6 and "said request from said user" in line 12. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10 and 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Duso et al. (U.S. 5,892,915 A).

Regarding claim 1, Duso teaches in a video on demand system (see figure 2) for supplying video data in response to a user request, the video on demand system comprising: a

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plurality of video servers (servers 21) each including a separate hardware and software subsystem and capable of supplying video data to said user (see figure 2; col. 5, line 48 to col. 6, line 14); a temporary memory (i.e., disk array 23) for storage of said video data responsively coupled to each of said plurality of video servers (see figure 2); and a multimedia application server (28, 29) including a dedicated hardware and software subsystem responsively coupled to said temporary memory (array 23) which receives said request from said user, spools said video data into said temporary memory, and selects a particular one of said plurality of video servers to stream said video data from said temporary memory to said user in response to said user request (the controller servers 28, 29 selects one of the servers 21 to read the requested data from the disk array 23 and transmit the data to the client on network 25 – see col. 27, lines 25-30 and line 62 to col. 28, line 13 and figure 2).

Regarding claim 2, Duso teaches selecting said particular one of said plurality of video servers based upon said particular one of said plurality of video servers already having said video data loaded (i.e., selecting another stream server 21 to load data into the newly allocated RAM window in anticipation of client request for a selected movie – see col. 25, lines 3-26).

Regarding claim 3, Duso teaches selecting said particular one of said plurality of video servers based upon which of said plurality of video servers is least utilized (i.e., one of the stream servers 21 having the most resources for serving client requests is selected – see col. 24, line 61 to col. 25, line 2).

Regarding claim 4, Duso teaches selecting said particular one of said plurality of video servers based upon which of said plurality of video servers has sufficient unused storage space (i.e., the selected server 21 has sufficient resources to handle the client request. That includes the server having sufficient unused storage space or buffer memory capacity and sufficient bandwidth to handle the client request – see col. 24, lines 14-35; col. 23, lines 27-29).

Regarding claim 5, Duso teaches replacing a previous video program from said one of said plurality of video servers with said video data (i.e., new data are added to each window, and old data are remove from each window – see col. 23, lines 9-11).

Regarding claim 6, Duso teaches an apparatus comprising: a video program request generated by a user (54); a plurality of video servers (servers 21) each including a separate hardware and software subsystem and capable of supplying video data to said user (see figure 2; col. 5, line 48 to col. 6, line 14); a temporary memory (i.e., disk array 23) for storage of said video data responsively coupled to each of said plurality of video servers (see figure 2); and a multimedia application server (28, 29) including a dedicated hardware and software subsystem responsively coupled to said temporary memory (array 23) which receives said request from said user, spools said video data into said temporary memory, and selects a particular one of said plurality of video servers to stream said video data from said temporary memory to said user in response to said user request (the controller servers 28, 29 selects one of the servers 21 to read the requested data from the disk array 23 and transmit the data to the client on network 25 – see col. 27, lines 25-30 and line 62 to col. 28, line 13 and figure 2).

Regarding claim 7, Duso teaches selecting said particular one of said plurality of video servers based upon said particular one of said plurality of video servers already having said video data loaded (i.e., selecting another stream server 21 to load data into the newly allocated RAM window in anticipation of client request for a selected movie – see col. 25, lines 3-26).

Regarding claim 8, Duso teaches selecting said particular one of said plurality of video servers based upon which of said plurality of video servers is least utilized (i.e., one of the stream servers 21 having the most resources for serving client requests is selected – see col. 24, line 61 to col. 25, line 2).

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Regarding claim 9, Duso teaches selecting said particular one of said plurality of video servers based upon which of said plurality of video servers has sufficient unused storage space (i.e., the selected server 21 has sufficient resources to handle the client request. That includes the server having sufficient unused storage space or buffer memory capacity and sufficient bandwidth to handle the client request – see col. 24, lines 14-35; col. 23, lines 27-29).

Regarding claim 10, Duso teaches directing said one of said plurality of video servers to swap said video program for an existing video program (i.e., new data are added to each window, and old data are remove from each window – see col. 23, lines 9-11).

Regarding claim 21, see rejection of claim 6 above.

Regarding claim 22, see rejection of claim 7 above.

Regarding claim 23, see rejection of claim 8 above.

Regarding claim 24, see rejection of claim 9 above.

Regarding claim 25, see rejection of claim 10 above.

Conclusion

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____.
(Date)

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Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____.
(Date)

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Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ngoc K. Vu
Primary Examiner
Art Unit 2623

June 12, 2006